

## **Assembly Bill No. 3073**

### **CHAPTER 198**

An act to amend Section 17506 of the Family Code, to amend Sections 4217.11, 14710, and 15814.11 of the Government Code, to amend Section 637.5 of the Penal Code, to amend Sections 247, 247.1, 490, 1013, 2883, 2885.6, 2886, 2890.2, 2892, 2892.3, 2892.5, 2894, 7000, and 7943 of, to amend and renumber Sections 215.5, 216.5, 218.5, and 224.5 of, and to add Sections 216.8 and 224.4 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor August 28, 2006. Filed with  
Secretary of State August 28, 2006.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 3073, Committee on Utilities and Commerce. Public utilities: telecommunications.

Under existing law, the Federal Communications Commission licenses and partially regulates providers of commercial mobile radio service, including providers of cellular radiotelephone service (cellular), broadband Personal Communications Services (PCS), digital Specialized Mobile Radio (SMR) services (collectively, mobile telephony service providers), providers of mobile data access to handheld devices and laptop computers, and paging carriers offering services on pagers and two-way messaging devices (collectively, mobile data services), and certain mobile satellite services. Under existing law, no state or local government may regulate the entry of, or the rates charged by, any commercial mobile radio service, but a state or local government is generally not prohibited from regulating the other terms and conditions of commercial mobile radio service.

Existing law authorizes the Public Utilities Commission to regulate telecommunications services and rates of telephone corporations, except to the extent regulation of commercial mobile radio service conflicts with specified federal law, and to require telephone corporations to provide customer services. The existing Public Utilities Act authorizes the commission to exempt commercial mobile radio service, as defined, from any tariff-filing requirement if the rates for commercial mobile radio service are not subject to regulation pursuant to a specific federal law and provides that any provision of the act that is in conflict with a specified federal law does not apply to commercial mobile radio service to the extent of the conflict.

This bill would define the terms "commercial mobile radio service," "mobile data service," "mobile paging service," "mobile satellite telephone service," and "mobile telephony service" within the Public Utilities Act. The bill would replace certain references to commercial

mobile radio service, with mobile telephony service. The bill would replace certain references to wireless and cellular telephone corporations, with providers of mobile telephony and mobile satellite telephone service. The bill would renumber certain definitions within the Public Utilities Act to place them in alphabetical order. The bill would make other conforming and nonsubstantive changes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 17506 of the Family Code is amended to read:

17506. (a) There is in the department a California Parent Locator Service and Central Registry that shall collect and disseminate all of the following, with respect to any parent, putative parent, spouse, or former spouse:

(1) The full and true name of the parent together with any known aliases.

(2) Date and place of birth.

(3) Physical description.

(4) Social security number.

(5) Employment history and earnings.

(6) Military status and Veterans Administration or military service serial number.

(7) Last known address, telephone number, and date thereof.

(8) Driver's license number, driving record, and vehicle registration information.

(9) Criminal, licensing, and applicant records and information.

(10) (A) Any additional location, asset, and income information, including income tax return information obtained pursuant to Section 19285.1 of the Revenue and Taxation Code, and to the extent permitted by federal law, the address, telephone number, and social security number obtained from a public utility, cable television corporation, a provider of electronic digital pager communication, or a provider of mobile telephony services that may be of assistance in locating the parent, putative parent, abducting, concealing, or detaining parent, spouse, or former spouse, in establishing a parent and child relationship, in enforcing the child support liability of the absent parent, or enforcing the spousal support liability of the spouse or former spouse to the extent required by the state plan pursuant to Section 17604.

(B) For purposes of this subdivision, "income tax return information" means all of the following regarding the taxpayer:

(i) Assets.

(ii) Credits.

(iii) Deductions.

(iv) Exemptions.

(v) Identity.

(vi) Liabilities.

- (vii) Nature, source, and amount of income.
- (viii) Net worth.
- (ix) Payments.
- (x) Receipts.
- (xi) Address.
- (xii) Social security number.

(b) Pursuant to a letter of agreement entered into between the Department of Child Support Services and the Department of Justice, the Department of Child Support Services shall assume responsibility for the California Parent Locator Service and Central Registry. The letter of agreement shall, at a minimum, set forth all of the following:

(1) Contingent upon funding in the Budget Act, the Department of Child Support Services shall assume responsibility for leadership and staff of the California Parent Locator Service and Central Registry commencing July 1, 2003.

(2) All employees and other personnel who staff or provide support for the California Parent Locator Service and Central Registry shall, at the time of the transition, at their option, become the employees of the Department of Child Support Services at their existing or equivalent classification, salaries, and benefits.

(3) Until the department's automation system for the California Parent Locator Service and Central Registry functions is fully operational, the department shall use the automation system operated by the Department of Justice.

(4) Any other provisions necessary to ensure continuity of function and meet or exceed existing levels of service.

(c) To effectuate the purposes of this section, the California Child Support Automation System, the California Parent Locator Service and Central Registry, and the Franchise Tax Board shall utilize the federal Parent Locator Service to the extent necessary, and may request and shall receive from all departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and those entities shall provide, that assistance and data that will enable the Department of Child Support Services and other public agencies to carry out their powers and duties to locate parents, spouses, and former spouses, and to identify their assets, to establish parent-child relationships, and to enforce liability for child or spousal support, and for any other obligations incurred on behalf of children, and shall also provide that information to any local child support agency in fulfilling the duties prescribed in Section 270 of the Penal Code, and in Chapter 8 (commencing with Section 3130) of Part 2 of Division 8 of this code, relating to abducted, concealed, or detained children. The California Child Support Automation System shall be entitled to the same cooperation and information as the California Parent Locator Service and Central Registry to the extent allowed by law. The California Child Support Automation System shall be allowed access to criminal record information only to the extent that access is allowed by state and federal law.

(d) (1) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the California Child Support Automation System may request and shall receive from public utilities, as defined in Section 216 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the public utility, to the extent that this information is stored within the computer database of the public utility.

(2) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the California Child Support Automation System may request and shall receive from cable television corporations, as defined in Section 216.4 of the Public Utilities Code, the providers of electronic digital pager communication, as defined in Section 629.51 of the Penal Code, and the providers of mobile telephony services, as defined in Section 224.4 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the cable television corporation, customers of the providers of electronic digital pager communication, and customers of the providers of mobile telephony services.

(3) In order to protect the privacy of utility, cable television, electronic digital pager communication, and mobile telephony service customers, a request to a public utility, cable television corporation, provider of electronic digital pager communication, or provider of mobile telephony services for customer service information pursuant to this section shall meet the following requirements:

(A) Be submitted to the public utility, cable television corporation, provider of electronic digital pager communication, or provider of mobile telephony services in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry or the California Child Support Automation System and approved by all of the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony services. The transmittal shall be deemed to be an administrative subpoena for customer service information.

(B) Have the signature of a representative authorized by the California Parent Locator Service and Central Registry or the California Child Support Automation System.

(C) Contain at least three of the following data elements regarding the person sought:

- (i) First and last name, and middle initial, if known.
- (ii) Social security number.
- (iii) Driver's license number.

- (iv) Birth date.
- (v) Last known address.
- (vi) Spouse's name.

(D) The California Parent Locator Service and Central Registry and the California Child Support Automation System shall ensure that each public utility, cable television corporation, provider of electronic digital pager communication services, and provider of mobile telephony services has at all times a current list of the names of persons authorized to request customer service information.

(E) The California Child Support Automation System and the California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility, cable television corporation, providers of electronic digital pager communication, or provider of mobile telephony services is applicable to the person who is being sought before releasing the information pursuant to subdivision (d).

(4) During the development of the California Child Support Automation System, the department shall determine the necessity of additional locate sources, including those specified in this section, based upon the cost-effectiveness of those sources.

(5) The public utility, cable television corporation, electronic digital pager communication provider, or mobile telephony service provider may charge a fee to the California Parent Locator Service and Central Registry or the California Child Support Automation System for each search performed pursuant to this subdivision to cover the actual costs to the public utility, cable television corporation, electronic digital pager communication provider, or mobile telephony service provider for providing this information.

(6) No public utility, cable television corporation, electronic digital pager communication provider, or mobile telephony service provider or official or employee thereof, shall be subject to criminal or civil liability for the release of customer service information as authorized by this subdivision.

(e) Notwithstanding Section 14202 of the Penal Code, any records established pursuant to this section shall be disseminated only to the Department of Child Support Services, the California Child Support Automation System, the California Parent Locator Service and Central Registry, the parent locator services and central registries of other states as defined by federal statutes and regulations, a local child support agency of any county in this state, and the federal Parent Locator Service. The California Child Support Automation System shall be allowed access to criminal offender record information only to the extent that access is allowed by law.

(f) (1) At no time shall any information received by the California Parent Locator Service and Central Registry or by the California Child Support Automation System be disclosed to any person, agency, or other entity, other than those persons, agencies, and entities specified pursuant to Section 17505, this section, or any other provision of law.

(2) This subdivision shall not otherwise affect discovery between parties in any action to establish, modify, or enforce child, family, or spousal support, that relates to custody or visitation.

(g) (1) The Department of Justice, in consultation with the Department of Child Support Services, shall promulgate rules and regulations to facilitate maximum and efficient use of the California Parent Locator Service and Central Registry. Upon implementation of the California Child Support Automation System, the Department of Child Support Services shall assume all responsibility for promulgating rules and regulations for use of the California Parent Locator Service and Central Registry.

(2) The Department of Child Support Services, the Public Utilities Commission, the cable television corporations, providers of electronic digital pager communication, and the providers of mobile telephony services shall develop procedures for obtaining the information described in subdivision (c) from public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony services and for compensating the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony services for providing that information.

(h) The California Parent Locator Service and Central Registry may charge a fee not to exceed eighteen dollars (\$18) for any service it provides pursuant to this section that is not performed or funded pursuant to Section 651 and following of Title 42 of the United States Code.

(i) This section shall be construed in a manner consistent with the other provisions of this article.

SEC. 2. Section 4217.11 of the Government Code is amended to read:

4217.11. The following terms, whenever used in this chapter, have the meanings given in this section, except where the context clearly indicates otherwise:

(a) “Alternate energy equipment” means equipment for the production or conversion of energy from alternate sources as its primary fuel source, such as solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, remote natural gas of less than one billion cubic feet estimated reserves per mile from an existing gas gathering line, natural gas containing 850 or fewer British Thermal Units per standard cubic foot, or any other source of energy, the efficient use of which will reduce the use of fossil or nuclear fuels.

(b) “Cogeneration equipment” means equipment for cogeneration, as defined in Section 216.6 of the Public Utilities Code.

(c) “Conservation measures” means equipment, maintenance, load management techniques and equipment, or other measures to reduce energy use or make for a more efficient use of energy.

(d) “Conservation services” means the electrical, thermal, or other energy savings resulting from conservation measures, which shall be treated as a supply of such energy.

(e) “Energy conservation facility” means alternate energy equipment, cogeneration equipment, or conservation measures located in public buildings or on land owned by public agencies.

(f) “Energy service contract” means a contract entered into by a public agency with any person, pursuant to which the person will provide electrical or thermal energy or conservation services to a public agency from an energy conservation facility.

(g) “Facility financing contract” means a contract entered into by a public agency with any person whereby the person provides financing for an energy conservation facility in exchange for repayment of the financing and all costs and expenses related thereto by the public agency. A facility financing contract may provide for the person with whom the public agency contracts to provide any combination of feasibility studies for, and design and construction of, all or part of the energy conservation facility in addition to the financing and other related services, and may provide for an installment sale purchase, another form of purchase, or amortized lease of the energy conservation facility by the public agency.

(h) “Facility ground lease” means a lease of all, or any portion of, land or a public building owned by, or under lease to, a public agency to a person in conjunction with an energy service contract or a facility financing contract. A facility ground lease may include, in addition to the land on which energy conservation facilities will be located, easements, rights-of-way, licenses, and rights of access, for the construction, use, or ownership by the person of the facility and all related utility lines not owned or controlled by the interconnecting utility, and offsite improvements related thereto. A facility ground lease may also include the addition or improvement of utility lines and equipment owned by the interconnecting utility which are necessary to permit interconnection between that utility and an energy conservation facility.

(i) “Person” means, but is not limited to, any individual, company, corporation, partnership, limited liability company, public agency, association, proprietorship, trust, joint venture, or other entity or group of entities.

(j) “Public agency” means the state, a county, city and county, city, district, community college district, school district, joint powers authority or other entity designated or created by a political subdivision relating to energy development projects, and any other political subdivision or public corporation in the state.

(k) “Public building” includes any structure, building, facility, or work which a public agency is authorized to construct or use, and automobile parking lots, landscaping, and other facilities, including furnishings and equipment, incidental to the use of any structure, building, facility, or work, and also includes the site thereof, and any easements, rights-of-way appurtenant thereto, or necessary for its full use.

SEC. 3. Section 14710 of the Government Code is amended to read:

14710. As used in this article, the following terms have the following meanings:

(a) “Alternative energy equipment” means alternative energy equipment, as defined in subdivision (d) of Section 15814.11, and, in the case of fossil fuel generation, complies with emission standards and guidance adopted by the State Air Resources Board pursuant to Sections 41514.9 and 41514.10 of the Health and Safety Code. Prior to the adoption of those standards and guidance, for the purposes of this article, distributed energy resources shall meet emission levels equivalent to nine ppm oxides of nitrogen, averaged over a three-hour period, or best available control technology for the applicable air district, whichever is lower.

(b) “Cogeneration equipment” means equipment used for cogeneration, as defined in Section 216.6 of the Public Utilities Code.

(c) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account life-cycle costing analyses, and environmental, social, and technological factors, however, renewable technologies shall not be exempt based solely on cost considerations.

(d) “Public building” means a public building, as defined in Section 15802.

(e) “State agency” means any state agency, board, department or commission, including, but not limited to, the entities specified in subdivision (a) of Section 15814.12.

SEC. 4. Section 15814.11 of the Government Code is amended to read:

15814.11. For purposes of this part and Part 10.5 (commencing with Section 15750), the following terms have the following meanings:

(a) “Public building” means a public building as defined in Section 15802, and includes the cogeneration and alternative energy equipment, water conservation equipment, and conservation measures which the board is authorized by this chapter to acquire and construct. “Public Building” also means any publicly funded school that includes kindergarten and grades 1 to 12, inclusive, or any portion of those grades, provided that publicly funded schools that include kindergarten and grades 1 to 12, inclusive, shall be authorized to finance only conservation measures and water conservation equipment as defined in subdivisions (e) and (g).

(b) “Energy service contract” means a contract entered into by the board or any other state agency with any person, including, but not limited to, an individual, company, corporation, partnership, state agency, or other entity or group of entities, pursuant to which the person will provide electrical or thermal energy or water or water conservation or energy conservation measures.

(c) “Cogeneration equipment” means equipment for cogeneration, as defined in Section 216.6 of the Public Utilities Code.

(d) “Alternative energy equipment” means equipment for the production or conversion of energy from alternative sources, including, but not limited to, solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy or water, the efficient use of which will reduce the use of fossil or nuclear fuels or water from established sources of supply.

(e) “Conservation measures” means equipment, maintenance, meters, load management techniques and equipment, or other measures to reduce energy or water use or make for a more efficient use of energy or water.

(f) “State agency” means any state agency, board, department or commission, including, but not limited to, the entities specified in Section 15814.12, and any school district as defined in Section 80 of the Education Code.

(g) “Water conservation equipment” means any device or modification that reduces water use from established water sources.

SEC. 5. Section 637.5 of the Penal Code is amended to read:

637.5. (a) No person who owns, controls, operates, or manages a satellite or cable television corporation, or who leases channels on a satellite or cable system shall:

(1) Use any electronic device to record, transmit, or observe any events or listen to, record, or monitor any conversations that take place inside a subscriber’s residence, workplace, or place of business, without obtaining the express written consent of the subscriber. A satellite or cable television corporation may conduct electronic sweeps of subscriber households to monitor for signal quality.

(2) Provide any person with any individually identifiable information regarding any of its subscribers, including, but not limited to, the subscriber’s television viewing habits, shopping choices, interests, opinions, energy uses, medical information, banking data or information, or any other personal or private information, without the subscriber’s express written consent.

(b) Individual subscriber viewing responses or other individually identifiable information derived from subscribers may be retained and used by a satellite or cable television corporation only to the extent reasonably necessary for billing purposes and internal business practices, and to monitor for unauthorized reception of services. A satellite or cable television corporation may compile, maintain, and distribute a list containing the names and addresses of its subscribers if the list contains no other individually identifiable information and if subscribers are afforded the right to elect not to be included on the list. However, a satellite or cable television corporation shall maintain adequate safeguards to ensure the physical security and confidentiality of the subscriber information.

(c) A satellite or cable television corporation shall not make individual subscriber information available to government agencies in the absence of legal compulsion, including, but not limited to, a court order or subpoena. If requests for information are made, a satellite or cable television corporation shall promptly notify the subscriber of the nature of the request and what government agency has requested the information prior to responding unless otherwise prohibited from doing so by law.

Nothing in this section shall be construed to prevent local franchising authorities from obtaining information necessary to monitor franchise compliance pursuant to franchise or license agreements. This information shall be provided so as to omit individually identifiable subscriber

information whenever possible. Information obtained by local franchising authorities shall be used solely for monitoring franchise compliance and shall not be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(d) Any individually identifiable subscriber information gathered by a satellite or cable television corporation shall be made available for subscriber examination within 30 days of receiving a request by a subscriber to examine the information on the premises of the corporation. Upon a reasonable showing by the subscriber that the information is inaccurate, a satellite or cable television corporation shall correct the information.

(e) Upon a subscriber's application for satellite or cable television service, including, but not limited to, interactive service, a satellite or cable television corporation shall provide the applicant with a separate notice in an appropriate form explaining the subscriber's right to privacy protection afforded by this section.

(f) As used in this section:

(1) "Cable television corporation" shall have the same meaning as that term is given by Section 216.4 of the Public Utilities Code.

(2) "Individually identifiable information" means any information identifying an individual or his or her use of any service provided by a satellite or cable system other than the mere fact that the individual is a satellite or cable television subscriber. "Individually identifiable information" shall not include anonymous, aggregate, or any other information that does not identify an individual subscriber of a video provider service.

(3) "Person" includes an individual, business association, partnership, corporation, limited liability company, or other legal entity, and an individual acting or purporting to act for or on behalf of any government, or subdivision thereof, whether federal, state, or local.

(4) "Interactive service" means any service offered by a satellite or cable television corporation involving the collection, reception, aggregation, storage, or use of electronic information transmitted from a subscriber to any other receiving point under the control of the satellite or cable television corporation, or vice versa.

(g) Nothing in this section shall be construed to limit the ability of a satellite or cable television corporation to market satellite or cable television or ancillary services to its subscribers.

(h) Any person receiving subscriber information from a satellite or cable television corporation shall be subject to the provisions of this section.

(i) Any aggrieved person may commence a civil action for damages for invasion of privacy against any satellite or cable television corporation, service provider, or person that leases a channel or channels on a satellite or cable television system that violates the provisions of this section.

(j) Any person who violates the provisions of this section is guilty of a misdemeanor punishable by a fine not exceeding three thousand dollars (\$3,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(k) The penalties and remedies provided by subdivisions (i) and (j) are cumulative, and shall not be construed as restricting any penalty or remedy, provisional or otherwise, provided by law for the benefit of any person, and no judgment under this section shall preclude any person from obtaining additional relief based upon the same facts.

(l) The provisions of this section are intended to set forth minimum state standards for protecting the privacy of subscribers to cable television services and are not intended to preempt more restrictive local standards.

SEC. 6. Section 215.5 of the Public Utilities Code is amended and renumbered to read:

216.4. “Cable television corporation” shall mean any corporation or firm which transmits television programs by cable to subscribers for a fee.

SEC. 7. Section 216.5 of the Public Utilities Code is amended and renumbered to read:

216.2. Notwithstanding Section 216, “public utility” does not include a motor carrier of property.

SEC. 8. Section 216.8 is added to the Public Utilities Code, to read:

216.8. “Commercial mobile radio service” means “commercial mobile service,” as defined in subsection (d) of Section 332 of Title 47 of the United States Code and as further specified by the Federal Communications Commission in Parts 20, 22, 24, and 25 of Title 47 of the Code of Federal Regulations, and includes “mobile data service,” “mobile paging service,” “mobile satellite telephone service,” and “mobile telephony service,” as those terms are defined in Section 224.4.

SEC. 9. Section 218.5 of the Public Utilities Code is amended and renumbered to read:

216.6. “Cogeneration” means the sequential use of energy for the production of electrical and useful thermal energy. The sequence can be thermal use followed by power production or the reverse, subject to the following standards:

(a) At least 5 percent of the facility’s total annual energy output shall be in the form of useful thermal energy.

(b) Where useful thermal energy follows power production, the useful annual power output plus one-half the useful annual thermal energy output equals not less than 42.5 percent of any natural gas and oil energy input.

SEC. 10. Section 224.5 of the Public Utilities Code is amended and renumbered to read:

224.2. “Landfill gas technology” means the process of extraction of gas or gaseous compounds from sanitary landfill areas which gas or compound was generated as a byproduct of the materials composing the landfill. For purposes of this division, real estate, fixtures, and personal property including gas extraction wells, engines and compressors for gas removal or storage, gas cleaning or rectifying equipment, equipment for

the generation or production of steam, electricity, heat, or other form of energy through the use of landfill gas, and facilities for the transmission or distribution of landfill gas or other form of energy generated or produced therefrom shall not be considered an electrical, gas, or heat plant or pipeline.

SEC. 11. Section 224.4 is added to the Public Utilities Code, to read:

224.4. (a) “Mobile data service” means the delivery of nonvoice information to a mobile device and includes nonvoice information communicated to a mobile telephony services handset, nonvoice information communicated to handheld personal digital assistant (PDA) devices and laptop computers, and mobile paging service carriers offering services on pagers and two-way messaging devices. Unless specified, “mobile data service” does not include nonvoice information communicated through a wireless local area network operating in the unlicensed radio bands, commonly known as a “Wi-Fi” network.

(b) “Mobile paging service” means the transmission of coded radio signals for the purpose of activating specific small radio receivers designed to be carried by a person and to give an aural, visual, or tactile indication when activated.

(c) “Mobile satellite telephone service” means voice communication to end users over a mobile satellite service involving the provision of commercial mobile radio service, pursuant to Parts 20 and 25 of Title 47 of the Code of Federal Regulations.

(d) “Mobile telephony service” means commercially available interconnected mobile phone services that provide access to the public switched telephone network (PSTN) via mobile communication devices employing radiowave technology to transmit calls, including cellular radiotelephone, broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR). “Mobile telephony services” does not include mobile satellite telephone services or mobile data services used exclusively for the delivery of nonvoice information to a mobile device.

SEC. 12. Section 247 of the Public Utilities Code is amended to read:

247. Any provision of this part that is in conflict with the Communications Act of 1934, as amended, (47 U.S.C. Sec. 332(c)(3)) shall not apply to commercial mobile radio service to the extent of that conflict. If any provision contained in this part applicable to commercial mobile radio service, or the application thereof to any person or circumstance, is invalid as a result of federal preemption, the remainder of this part, or the application of the provision to other persons or circumstances, shall not be affected thereby.

SEC. 13. Section 247.1 of the Public Utilities Code is amended to read:

247.1. (a) The Mobile Telecommunications Sourcing Act (P.L. 106-252) was enacted for the purpose of establishing nationwide uniform sourcing rules for the imposition of state and local taxes, fees, and surcharges on mobile telecommunications services. In order to establish a single, uniform sourcing rule, the federal act partially preempted state and

local law imposing taxes, fees, and surcharges on a mobile telecommunications services customer whose place of primary use is outside of the state in which the state and local taxes, fees, or surcharges are imposed.

(b) In accordance with the Mobile Telecommunications Sourcing Act, which is incorporated herein by reference, and notwithstanding Sections 280, 431, 739.3, 879, and 2881, the surcharges or fees under these sections do not apply to any charges for mobile telecommunications services billed to a customer where those services are provided, or deemed provided, to a customer whose place of primary use is outside this state. Mobile telecommunications services shall be deemed provided by a customer's home service provider to the customer if those services are provided in a taxing jurisdiction to the customer, and the charges for those services are billed by or for the customer's home service provider.

(c) For purposes of this section:

(1) "Charges for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, as defined in Section 216.8, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to the customer by or for the customer's home service provider, regardless of whether individual transmissions originate or terminate within the licensed service area of a home service provider.

(2) "Customer" means either (A) the person or entity that contracts with the home service provider for mobile telecommunications services, or (B) if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications service. This paragraph applies only for the purpose of determining the place of primary use. The term "customer" does not include either (A) a reseller of mobile telecommunications service, or (B) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(3) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(4) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

(5) "Mobile telecommunications service" means commercial mobile radio service, as defined in Section 216.8.

(6) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, that must be:

(A) The residential street address or the primary business street address of the customer.

(B) Within the licensed area of the home service provider.

(7) (A) "Reseller" means a provider who purchases telecommunications services from another telecommunications service

provider and then resells the services, or uses the services as a component part of, or integrates the purchased services into a mobile telecommunications service.

(B) “Reseller” does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider’s licensed service area.

(8) “Serving carrier” means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider’s or reseller’s licensed area.

(9) “Taxing jurisdiction” means any of the several states, the District of Columbia, or any territory or possession of the United States, any municipality, city, county, township, parish, transportation district, or assessment jurisdiction, or any other political subdivision within the territorial limits of the United States with the authority to impose a tax, charge, or fee.

SEC. 14. Section 490 of the Public Utilities Code is amended to read:

490. (a) The commission may from time to time determine and prescribe by order changes in the form of the schedules referred to in this article as it finds expedient, and may modify the requirements of any of its orders or rules in respect to any matter referred to in this article.

(b) If the rates for any commercial mobile radio service are not subject to regulation by the commission as a result of federal law, then the commission may exempt the service from any tariff-filing requirement.

SEC. 15. Section 1013 of the Public Utilities Code is amended to read:

1013. (a) The commission may by rule or order, partially or completely exempt certain telecommunications services offered by telephone and telegraph corporations from the certification requirements of Section 1001 and instead subject them to registration as the commission may determine. Telephone corporations that the commission determines have monopoly power or market power in a relevant market or markets shall have a certificate of public convenience and necessity and shall not be eligible for designation as registered telephone corporations. A telephone corporation that has been found not to have monopoly power or market power in a relevant market or markets by the commission shall be eligible for registration subject to the approval of the commission. A telephone corporation operating in this state shall either have a certificate of public convenience and necessity or be registered under this section or be a telephone corporation authorized to operate in California without a certificate of public convenience and necessity.

(b) Registered telephone corporations qualifying under this section shall maintain an active registration with the commission at all times and comply with commission rules and regulations established for registered telephone corporations qualifying under this section.

(c) The registration of registered telephone corporations qualifying under this section shall be on a form prescribed by the commission and shall contain any information the commission may by rule or order require, but shall include as a minimum the name and address of the

telephone corporation's registered agent, if any, the name, address, and title of each officer or director, and a description of the telecommunications services it offers or intends to offer.

(d) Prior to designating any telephone corporation for registration status, the commission shall adopt rules to do both of the following:

(1) Verify the financial viability of the corporation.

(2) Verify that the officers of the corporation have no prior history of committing fraud on the public.

(e) The commission shall require as a precondition to registration the procurement of a performance bond sufficient to cover taxes or fees, or both, collected from customers and held for remittance and advances or deposits the telecommunications company may collect from its customers, or order that those advances or deposits be held in escrow or trust.

(f) The commission may, with or without a hearing, grant a telephone corporation registration status and an exemption from the certification requirements of Section 1001. However, upon timely application, any person entitled to be heard may file a protest on whether a telephone corporation should be eligible for registration status and the granting of an exemption from the certification requirement of Section 1001. Upon a determination that the protest has presented a prima facie case that a telephone corporation should not be granted registration status and an exemption from Section 1001, a hearing shall be held.

(g) The commission, after notice and a hearing if requested, may cancel, revoke, or suspend the registration of any telephone corporation upon any of the following grounds:

(1) The corporation does not provide the information required by this article.

(2) The corporation fails to provide or maintain a performance bond.

(3) The corporation conducts any illegal telephone operations.

(4) The corporation violates any of the applicable provisions of this code or of any regulations issued thereunder.

(5) The corporation violates any order, decision, rule, regulation, direction, demand, or requirement established by the commission under this code.

(6) The corporation fails to pay any fee or fine imposed upon the utility under this code.

(7) The corporation files a false statement to the commission.

(8) The corporation knowingly defrauds a customer.

(h) As an alternative to the cancellation, revocation, or suspension of a registration, the commission, after notice and a hearing, may impose upon the holder of the registration a fine in an amount not to exceed twenty thousand dollars (\$20,000) for each offense, and order reparations and restitution to customers for each offense.

(i) Every violation of this section or any part of any order, decision, decree, rule, direction, demand, or requirement of the commission, by any telephone corporation or person is a separate and distinct offense, and in

case of a continuing violation each day's continuance thereof shall be a separate and distinct offense.

(j) In construing and enforcing this section relating to penalties, the act, omission, or failure of any officer, agent, or employee of any registered telephone corporation qualifying under this section acting within the scope of his or her official duties or employment, shall in every case be the act, omission, or failure of the corporation. The commission may assess interest to commence upon the day the payment is delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in the General Fund.

(k) Actions to enforce the decision of the commission ordering the payment of fines, reparations, or restitution under this section shall be brought in the name of the people of the State of California, in the superior court of the county, or city and county, in which the corporation complained of, if any, has its principal place of business, or in which the person, if any, complained of, resides or in which the commission has offices. The enforcement of a commission decision or order under this section shall be commenced and prosecuted to final judgment by the attorney of the commission.

(l) The provisions of this section do not apply to commercial mobile radio service.

SEC. 16. Section 2883 of the Public Utilities Code is amended to read:

2883. (a) All local telephone corporations, excluding providers of mobile telephony service and mobile satellite telephone service, as defined in Section 224.4, shall, to the extent permitted by existing technology or facilities, provide every existing and newly installed residential telephone connection with access to "911" emergency service regardless of whether an account has been established.

(b) The commission shall prohibit any corporation from terminating access to the services described in subdivision (a) for nonpayment of any delinquent account or indebtedness owed by the subscriber to the telephone corporation. A subscriber and a telephone corporation may arrange payment schedules to regain full service.

(c) The commission shall require telephone corporations to inform subscribers of the availability of the services described in subdivision (a) in a manner determined by the commission.

(d) This section shall not be construed to relieve any person of an obligation to pay a debt owed to a telephone corporation.

(e) Nothing in this section shall require a local telephone corporation to provide "911" access pursuant to this section if doing so would preclude providing service to subscribers of residential telephone service.

SEC. 17. Section 2885.6 of the Public Utilities Code is amended to read:

2885.6. (a) The commission shall require mobile telephony service, as defined in Section 224.4, carriers to provide the commission, within six months of the effective date of the act that adds this section, and thereafter

as requested by the commission, with information, as specified by the commission, concerning service quality and customer complaints.

(b) In addition to any other sanctions available, the commission shall have the authority to assess any and all of the following specific penalties for mobile telephony carrier noncompliance with commission rules, practices, and procedures respecting the filing of required periodic information and reports to the commission:

(1) The revocation or suspension, on an expedited basis, of temporary tariffing authority granted the carrier.

(2) The revocation or suspension, on an expedited basis, of other rate flexibility or promotional program authority granted the carrier.

SEC. 18. Section 2886 of the Public Utilities Code is amended to read:

2886. (a) The commission shall require every telephone corporation furnishing mobile telephony service, as defined in Section 224.4, to establish a pricing system made available to subscribers that shall distinguish on the billing invoice charges to a subscriber for calls not completed from any other service charge on the billing invoice.

(b) The commission shall require that those calls which are not completed shall not be charged more than 50 percent of the charge established for completed subscriber initiated calls.

(c) For purposes of this section, a call is not completed when it originates from the mobile telephony service handset and any of the following occurs:

(1) The terminating line is busy and the originator receives a busy signal.

(2) The terminating line does not answer and the originator receives an audible ring.

(3) No radios are available and the originator receives a reorder signal.

(4) The mobile telephony switching office cannot connect the call to the public network and the originator receives a reorder signal.

(5) The public network cannot complete the call to the terminating number and the originator receives a reorder signal.

SEC. 19. Section 2890.2 of the Public Utilities Code is amended to read:

2890.2. (a) A provider of mobile telephony services, as defined in Section 224.4, shall provide subscribers with a means by which a subscriber can obtain reasonably current and available information, as determined by the provider, on the subscriber's calling plan or plans and service usage, including roaming usage and charges.

(b) On or before January 1, 2007, a provider of mobile telephony services shall provide subscribers with a means by which a subscriber can obtain reasonably current and available information, as determined by the provider, on the subscriber's text messaging and Internet usage and charges.

(c) Each provider of mobile telephony services shall inform subscribers at the time service is established of the availability of the information described in subdivisions (a) and (b) and how it may be obtained.

SEC. 20. Section 2892 of the Public Utilities Code is amended to read:

2892. (a) A provider of commercial mobile radio service, as defined in Section 216.8, shall provide access for end users of that service to the local emergency telephone systems described in the Warren-911-Emergency Assistance Act (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code). “911” shall be the primary access number for those emergency systems. A provider of commercial mobile radio service, in accordance with all applicable Federal Communication Commission orders, shall transmit all “911” calls from technologically compatible commercial mobile radio service communication devices without requiring user validation or any similar procedure. A provider of commercial mobile radio service may not charge any airtime, access, or similar usage charge for any “911” call placed from a commercial mobile radio service telecommunications device to a local emergency telephone system.

(b) A “911” call from a commercial mobile radio service telecommunications device may be routed to a public safety answering point other than the Department of the California Highway Patrol only if the alternate routing meets all of the following requirements:

(1) The “911” call originates from a location other than from a freeway, as defined in Section 23.5 of the Streets and Highways Code, under the jurisdiction of the Department of the California Highway Patrol.

(2) The alternate routing is economically and technologically feasible.

(3) The alternate routing will benefit public safety and reduce burdens on dispatchers for the Department of the California Highway Patrol.

(4) The Department of the California Highway Patrol, the Department of General Services, and the proposed alternate public safety answering point, in consultation with the wireless industry, providers of “911” selective routing service, and local law enforcement officials, determine that it is in the best interest of the public and will provide more effective emergency service to the public to route “911” calls that do not originate from a freeway, as defined in Section 23.5 of the Streets and Highways Code, under the jurisdiction of the Department of the California Highway Patrol to another public safety answering point.

SEC. 21. Section 2892.3 of the Public Utilities Code is amended to read:

2892.3. (a) The commission shall require providers of mobile telephony service, as defined in Section 224.4, to report to the commission, as specified by the commission, on activities associated with customer fraud.

(b) Each report shall include a description of the types of fraud occurring, the amount of revenues that have been uncollectible because of fraud, and the actions undertaken by the mobile telephony service provider to combat fraud.

(c) The commission shall require mobile telephony service providers to provide their subscribers with a notice, to be reviewed by the commission,

warning subscribers about problems associated with fraud, and informing them about ways to protect against fraud.

SEC. 22. Section 2892.5 of the Public Utilities Code is amended to read:

2892.5. (a) As used in this section “public safety agency” means a “public safety agency” as defined in Section 53102 of the Government Code.

(b) A provider of commercial mobile radio service, as defined in Section 216.8, may enter into a contract with a public safety agency to give the transmissions of public safety agency end users of that service priority over the transmissions of other persons or entities. The contract shall comply with applicable federal law.

SEC. 23. Section 2894 of the Public Utilities Code is amended to read:

2894. (a) Notwithstanding subdivision (e) of Section 2891, the disclosure of any information by an interexchange telephone corporation, a local exchange telephone corporation, or a provider of commercial mobile radio service, as defined in Section 216.8, in good faith compliance with the terms of a state or federal court warrant or order or administrative subpoena issued at the request of a law enforcement official or other federal, state, or local governmental agency for law enforcement purposes, is a complete defense against any civil action brought under this chapter or any other law, including, but not limited to, Chapter 1.5 (commencing with Section 630) of Part 1 of Title 15 of the Penal Code, for the wrongful disclosure of that information.

(b) As used in this section the following terms have the following meanings:

(1) “Interexchange telephone corporation” means a telephone corporation that is a long-distance carrier.

(2) “Local exchange telephone corporation” means a telephone corporation that provides local exchange services.

SEC. 24. Section 7000 of the Public Utilities Code is amended to read:

7000. (a) For purposes of this chapter, a utility shall mean all of the following:

(1) An electric corporation, as defined in Section 218.

(2) A water corporation, as defined in Section 241.

(3) A telephone corporation, as defined in Section 234.

(4) A telecommunications carrier, as defined in Section 153 of Title 47 of the United States Code.

(5) A gas corporation, as defined in Section 222.

(6) A local publicly owned electric utility, as defined in Section 9604, and a publicly owned gas utility.

(7) A special district that owns or operates utilities.

(b) This chapter shall also apply to the following entities:

(1) A cable television corporation, as defined in Section 216.4.

(2) A cable operator, as defined in Section 522 of Title 47 of the United States Code.

SEC. 25. Section 7943 of the Public Utilities Code is amended to read:

7943. (a) It is the intent of the Legislature that when the commission has no reasonable alternative other than to create a new area code, that the commission do so in a way that creates the least inconvenience for customers.

(b) The commission shall request that the Federal Communications Commission grant authority for the commission to order telephone corporations to assign telephone numbers dedicated to mobile telephony service and mobile data service, as defined in Section 224.4, to a separate area code and to permit seven digit dialing within that technology-specific area code and the underlying preexisting area code or codes.

(c) Before approving any new area code, the commission shall first perform a telephone utilization study and implement all reasonable telephone number conservation measures.

(d) If the commission receives the grant of authority set forth in subdivision (b) and determines that further area code relief is needed, the commission shall exercise the authority granted to it in subdivision (b) unless it finds at least one of the following:

(1) Exercising the authority granted by subdivision (b) would be more disruptive to the customers where area code relief has been determined to be necessary.

(2) Exercising the authority granted by subdivision (b) will not adequately extend the life of the area code where relief has been determined to be necessary.

(e) The commission may not implement any authority granted by the Federal Communications Commission pursuant to subdivision (b), in a manner that impairs the ability of a customer to have number portability.